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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/043,959	14-Mar-03	PAVEL LAZAREV, ET AL.	NONE

Title: THE METHOD OF FORMING ANISOTROPIC FILMS
AND THE DEVICE FOR ITS IMPLEMENTATION

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Art Unit	Paper Number
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MAILED

MAR 24. 2003

LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the
Petition for Retroactive License under 37 CFR 5.25.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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In re: LAZAREV et al : DECISION ON REQUEST
Serial No.: 10/043,959 : UNDER 37 CFR 5.25
Filing date: January 8, 2002
Docket No: none

Title: THE METHOD FOR FORMING ANISOTROPIC FILMS AND THE DEVICE FOR
ITS IMPLEMENTATION

This is a decision on the petition filed on March 14, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
 - i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
 - ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
 - iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is ~~Denied~~ at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii-iii) have not been met.

The declaration of Alla Sakharova states that the application was filed in Russia and that she did not know of the requirements of a license for filing in a foreign country. However, the specific circumstances surrounding the proscribed filing have not been fully explained to support the allegation of action through error and without deceptive intent. What is required is a showing of facts rather than mere allegation of action through error. Statements of fact should not be mere conclusionary but must include how and why the error occurred and when the "error" was discovered.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

A handwritten signature in black ink, appearing to read 'Ian J. Lobo', written in a cursive style.

Ian J. Lobo
Patent Examiner
(703) 306-4161